

STATE OF MINNESOTA  
OFFICE OF ADMINISTRATIVE HEARINGS

Gregg Peppin,

Complainant,

vs.

Lisa Fobbe,

Respondent.

**NOTICE OF DETERMINATION OF  
PRIMA FACIE VIOLATION AND  
NOTICE OF AND ORDER FOR  
PROBABLE CAUSE HEARING**

On September 12, 2024, Gregg Peppin (Complainant) filed a Fair Campaign Practices Complaint (Complaint) with the Office of Administrative Hearings. The Complaint alleges that Lisa Fobbe (Respondent) violated Minn. Stat. §§ 211A.02, 211A.06, and 211A.12 (2024), in connection with her campaign for election for Sherburne County Commissioner, District 5, to be held on November 5, 2024.

After reviewing the Complaint, the undersigned Administrative Law Judge has determined that the Complaint sets forth prima facie violations of Minn. Stat. §§ 211A.02 and 211A.12, but no violation of Minn. Stat. § 211A.06. For the reasons detailed in the Memorandum below, the Minn. Stat. §§ 211A.02 and 211A.12 allegations will proceed to a probable cause hearing and the alleged violations of Minn. Stat. § 211A.06 are dismissed.

**THEREFORE, IT IS HEREBY ORDERED AND NOTICE IS GIVEN** that this matter is scheduled for a telephone probable cause hearing to be held before the undersigned Administrative Law Judge at **11:30 a.m. on September 20, 2024**. At the appointed time, the parties are directed to call **651-395-7448**, and enter conference code: **555 169 515#**. **The parties are responsible for calling into the hearing.**

The probable cause hearing will be conducted pursuant to Minn. Stat. § 211B.34 (2024). Information about probable cause proceedings and copies of state statutes may be found online at <http://mn.gov/oah> and [www.revisor.leg.state.mn.us](http://www.revisor.leg.state.mn.us).

At the probable cause hearing, all parties have the right to be represented by legal counsel or appear on their own behalf. In addition, the parties have the right to submit evidence, affidavits, and argument for consideration by the Administrative Law Judge.

By **4:30 p.m. on September 19, 2024**, the parties must provide to the Administrative Law Judge all evidence bearing on the case, with copies of the same items sent to the opposing party. Due to the expedited nature of this matter, the parties shall provide copies of any filings to the opposing party via **email**.

Any document filed with the Office of Administrative Hearings, or any documents that a party wishes to make part of the hearing record, may be filed in one of the following ways: (1) by **eFiling** through the Office of Administrative Hearings' eFiling system; (2) by **mail**; (3) by **facsimile**; or (4) by **personal delivery**. See Minn. Stat. § 14.58; Minn. R. 1400.5550, subp. 5 (2023). The eFiling system is accessible at: <http://mn.gov/oah/forms-and-filing/efiling/>. The Office of Administrative Hearings' facsimile number is: (651) 539-0310.

After the probable cause hearing, the Administrative Law Judge will either: (1) dismiss the Complaint based on a determination that the Complaint is frivolous, or that there is no probable cause to believe that the violation(s) of law alleged in the Complaint has occurred; or (2) determine that there is probable cause to believe that the violation(s) of law alleged in the Complaint has occurred and refer the case to the Chief Administrative Law Judge to schedule an evidentiary hearing. Evidentiary hearings are conducted pursuant to Minn. Stat. § 211B.35.

If the Administrative Law Judge dismisses the Complaint, the Complainant may seek reconsideration of the decision on the record by the Chief Administrative Law Judge pursuant to Minn. Stat. § 211B.34, subd. 3.

Any party who needs an accommodation for a disability in order to participate in this hearing process may request one in writing. The parties shall notify the OAH **in writing as soon as possible** if an accommodation or interpreter is needed. To request an accommodation pursuant to Title II of the Americans with Disabilities Act, the parties should electronically submit an accommodation request at: <https://mn.gov/oah/lawyers-and-litigants/title-ii.jspTitle>.

**A failure by any party to participate and appear by telephone at the probable cause hearing may result in a finding of default, and the Complaint may be dismissed or disposed of pursuant to Minn. Stat. § 211B.35, subd. 2.**

Dated: September 17, 2024



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ANN C. O'REILLY  
Administrative Law Judge

## MEMORANDUM

Respondent is running for Sherburne County Commissioner, District 5, in the November 5, 2024 election.<sup>1</sup> The Complaint in this case arises out of Respondent's campaign for that position. The Complaint alleges that:

1. Respondent violated Minn. Stat. § 211A.02, subdivision 1 by failing to file an initial financial report within 14 days after receiving campaign contributions on June 23, 2024, July 18, 2024, and August 12, 2024, in the total amount of \$5,500.00;<sup>2</sup>
2. Respondent violated Minn. Stat. § 211A.06 by failing to keep a correct accounting as required by law, and did so with the intent to conceal receipts, the purpose of those receipts, or the existence or amount of an unpaid debt or the identity of the person to whom it is owed for contributions received on July 18, 2024, August 12, 2024, and August 26, 2024;<sup>3</sup>
3. Respondent violated Minn. Stat. § 211A.12 by accepting an August 26, 2024 contribution that exceeds the maximum contribution of \$600.00 per person allowed under the statute.<sup>4</sup>

### I. Standard for Prima Facie Determinations

To establish a prima facie violation of the Fair Campaign Practices Act, a complainant must allege sufficient facts to show that a violation of law has occurred.<sup>5</sup> The complaining party must submit evidence or allege facts that, if accepted as true, would be sufficient to prove a violation of Minn. Stat. §§ 211A.01-.14, 211B.01-.37 (2024).<sup>6</sup>

For purposes of a prima facie determination, this tribunal must accept the facts that are alleged in the Complaint as true, without independent substantiation, provided that those facts are not patently false or inherently incredible.<sup>7</sup> In determining whether a complaint alleges sufficient facts to state a prima facie case, reasonable inferences must be drawn in the light most favorable to the Complainant.<sup>8</sup>

A complaint must be dismissed if it does not include evidence or allege facts that, if accepted as true, would be sufficient to prove a violation of Minn. Stat. §§ 211A.01-.14, 211B.01-.37.<sup>9</sup>

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<sup>1</sup> Complaint at 2 (September 12, 2024).

<sup>2</sup> *Id.* at 3.

<sup>3</sup> *Id.* at 3-4.

<sup>4</sup> *Id.* at 4.

<sup>5</sup> Minn. Stat. § 211B.32, subd. 3 (2024).

<sup>6</sup> *Barry v. St. Anthony-New Brighton Indep. Sch. Dist. 282*, 781 N.W.2d 898, 902 (Minn. Ct. App. 2010).

<sup>7</sup> *Id.*

<sup>8</sup> *Abrahamson v. St. Louis Cty. Sch. Dist.*, 819 N.W.2d 129, 136 (Minn. 2012).

<sup>9</sup> *Barry*, 781 N.W.2d at 902.

## **II. Financial Report (Minn. Stat. § 211A.02)**

The first allegation set forth in the Complaint involves the initial filing of a campaign financial report, as required by Minn. Stat. § 211A.02, subdivision 1(a). Section 211A.02, subdivision 1(a), provides as follows:

A committee or a candidate who receives contributions or makes disbursements of more than \$750 in a calendar year shall submit an initial report to the filing officer within 14 days after the candidate or committee receives or makes disbursements of more than \$750 and shall continue to make the reports listed in paragraph (b) until a final report is filed.<sup>10</sup>

Complainant alleges that Respondent failed to file an initial report within 14 days of receiving contributions totaling \$750 or more.<sup>11</sup> Complainant submitted a copy of Respondent's campaign financial report as Attachment 1 to the Complaint. This campaign financial report covers the period from May 21, 2024, through September 3, 2024, and was received by the county auditor/treasurer on September 3, 2024.<sup>12</sup>

According to that report, Respondent's campaign received a \$200 contribution from Mary and Scott Lagaard on June 23, 2024; a \$300 contribution from Gary Gray on July 18, 2024; and a \$5,000 contribution from Respondent herself on August 12, 2024.<sup>13</sup> Respondent thus met the \$750 statutory threshold, requiring the filing of an initial financial report, after she donated \$5,000 to her own campaign on August 12, 2024.

Accepting the facts alleged as true, which is required at this stage of review, the Administrative Law Judge finds Complainant has alleged sufficient facts to support finding a prima facie violation of section 211A.02, subdivision 1(a) by Respondent. If August 12, 2024, was the date Respondent first met the \$750 reporting threshold as a candidate for local office, her initial report should have been filed on or before August 26, 2024. It appears that the report was filed with the county auditor on September 3, 2024. Accordingly, this claim will proceed to the probable cause hearing.

## **III. Failure to Keep Account (Minn. Stat. § 211A.06)**

Next, the Complaint alleges that Respondent violated Minn. Stat. § 211A.06 by intentionally failing to keep a correct accounting as required by law with the intent to conceal financial information.<sup>14</sup> Minn. Stat. § 211A.06 provides as follows:

A treasurer or other individual who receives money for a committee is guilty of a misdemeanor if the individual:

- (1) fails to keep a correct account as required by law;
- (2) mutilates, defaces, or destroys an account record; or

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<sup>10</sup> Minn. Stat. § 211A.02, subd. 1(a) (2024).

<sup>11</sup> Complaint at 3.

<sup>12</sup> Attach. 1.

<sup>13</sup> Complaint at 3; Attachment (Attach.) 1.

<sup>14</sup> Complaint at 3-4.

- (3) in the case of a committee, refuses upon request to provide financial information to a candidate; and
- (4) does any of these things with the intent to conceal receipts or disbursements, the purpose of receipts or disbursements, or the existence or amount of an unpaid debt or the identity of the person to whom it is owed.<sup>15</sup>

The current language of Minn. Stat. § 211A.06 does not apply to candidates.<sup>16</sup> Instead, the statute applies to individuals who receive money for campaign committees, not individual candidates.<sup>17</sup> Committees are a “corporation or association or persons acting together to influence the nomination, election, or defeat of a candidate or to promote or defeat a ballot question.”<sup>18</sup> Nothing in the Complaint suggests that Respondent received money for a committee. The Complaint itself is made against Respondent in her capacity as a candidate, rather than against a committee. The Complaint does not provide sufficient evidence or allegations for the language of Minn. Stat. § 211A.06 to apply.

In addition, Complainant has not alleged any facts to support a claim that Respondent intentionally kept inaccurate accounts so as to conceal financial information. It is not enough to merely allege that a candidate is intentionally concealing reportable contributions and disbursements. A complainant must submit evidence or allege facts sufficient to support the allegation.

Because this statute does not apply to the facts alleged in the Complaint, the claims brought under Minn. Stat. § 211A.06 are **DISMISSED**.

#### **IV. Contribution Limits (Minn. Stat. § 211A.12)**

Finally, the Complaint alleges that Respondent violated Minn. Stat. § 211A.12 by accepting an August 26, 2024 contribution that exceeds the maximum contribution of \$600.00 per person.<sup>19</sup> Minn. Stat. § 211A.12 provides as follows:

*A candidate or a candidate's committee may not accept aggregate contributions made or delivered by an individual or committee in excess of \$600 in an election year for the office sought and \$250 in other years; except that a candidate or a candidate's committee for an office whose territory has a population over 100,000 may not accept aggregate contributions made or delivered by an individual or committee in excess of \$1,000 in an election year for the office sought and \$250 in other years.*<sup>20</sup>

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<sup>15</sup> Minn. Stat. § 211A.06 (2024).

<sup>16</sup> In 2024, Minn. Stat. § 211A.06 was amended effective January 1, 2025, to include candidates among those covered by the statute. See 2024 Minn. Laws ch. 112, art. 4, § 23, at 59-60.

<sup>17</sup> Minn. Stat. § 211A.06.

<sup>18</sup> Minn. Stat. § 211A.01, subd. 4 (2024).

<sup>19</sup> Complaint at 4.

<sup>20</sup> Minn. Stat. § 211A.12 (2024) (emphasis added).

Respondent's financial report shows a contribution of \$1,000 made to Respondent's campaign by Barbara Rudquist on August 26, 2024.<sup>21</sup> Complainant alleges that this \$1,000 contribution is more than the \$600 maximum allowed by Minn. Stat. § 211A.12.<sup>22</sup>

Respondent is seeking election as a County Commissioner for District 5 of Sherburne County.<sup>23</sup> At the time of this order, Sherburne County was last measured to have a population of 102,206.<sup>24</sup> It is reasonable to presume that District 5 of Sherburne County has a population of less than 100,000. Therefore, it would be a violation of Minn. Stat. § 211A.12 for Respondent to accept the \$1,000 donation from Barbara Rudquist. The Complaint sets forth a prima facie violation of Minn. Stat. § 211A.12. Accordingly, the claim related to Minn. Stat. § 211A.12 will proceed to the probable cause hearing.

## **V. Conclusion**

Accepting the facts alleged in the Complaint as true, the Administrative Law Judge finds that Complainant has set forth prima facie violations of Minn. Stat. §§ 211A.02 and 211A.12. Accordingly, Complainant's claims under §§ 211A.02 and 211A.12 will proceed to a probable cause hearing as ordered above. Complainant's claims under § 211A.06 are **DISMISSED**.

**A. C. O.**

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<sup>21</sup> Attach. 1.

<sup>22</sup> Complaint at 4.

<sup>23</sup> Complaint at 2.

<sup>24</sup> Based on 2023 census data, the population of Sherburne County is over 100,000. See <https://www.census.gov/quickfacts/fact/table/sherburnecountyminnesota,US/PST045216>; U.S. Census Bureau QuickFacts: Sherburne County, Minnesota.